

REPORT

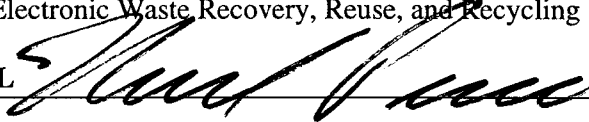
DATE: July 31, 2003

TO: The Regional Council

FROM: Charlotte Eckelbecker, Government Affairs Analyst
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SUBJECT: SB 20 (Sher) Solid Waste: Electronic Waste Recovery, Reuse, and Recycling

EXECUTIVE DIRECTOR'S APPROVAL



RECOMMENDED ACTION: Support and Amend

SUMMARY:

Senate Bill 20, introduced by Senate Environmental Quality Committee Chair Byron Sher (D-Palo Alto), creates the Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003. SB 20 defines "hazardous electronic devices" and prohibits their sale in California unless the manufacturer implements a take-back plan or pays a fee to cover the cost of a waste recovery program. The California Integrated Waste Management Board (CIWMB) is empowered to impose civil penalties for violations and to review, amend, approve or disapprove waste recovery plans.

By establishing a take-back program that removes electronic waste from landfills, SB 20 encourages solid waste diversion per AB 939's requirements and protects the public health by reducing the presence of hazardous materials in solid waste facilities and, ultimately, ground water. The Energy and Environment Committee recommends a position of support and amend.

BACKGROUND:

Collectively known as "e-waste," obsolete or inoperative electronic devices like televisions, cellular phones, and computer monitors are a growing component of the waste stream, where they pose an environmental and public health threat due to their use of lead, mercury, beryllium, cadmium, brominated-flame retardants and other hazardous materials. No state program addresses e-waste, although regulations passed by the Department of Toxic Substances Control (DTSC) prohibit the disposal of lead-containing cathode ray tubes (CRTs) in landfills.

Legislators in California began examining the issue of e-waste around the same time as European policymakers. In October 2002, the European Union adopted a directive requiring product manufacturers to bear the financial burdens of managing e-waste and to develop take-back programs. The National Electronics Product Stewardship Initiative (NEPSI), a stakeholder group, has brokered the corresponding e-waste dialogue in the United States. NEPSI's Product Stewardship Principles have been developed to support state and local agencies in promoting product stewardship.

With momentum gathering, the California Legislature passed SB 1523 (Romero) last year to establish a state CRT recovery program. Governor Davis vetoed the bill, stating in his veto message he was "willing to sign legislation that challenges industry to assume greater responsibility for the recycling and disposal of electronic waste." Senator Sher has responded to the Governor's message with SB 20.

The bill incorporates NEPSI's primary goal of developing a system that includes viable financing to maximize the collection, reuse, and recycling of used electronics while reducing product toxicity. This goal, among others, was endorsed by the Solid Waste Task Force and the EEC when they voted to adopt NEPSI's Product Stewardship Principles as SCAG's e-waste policy in November 2002 and December

2002 respectively. The Regional Council returned the recommendation to the EEC in January 2003 for further analysis.

Specifically, SB 20 defines a "hazardous electronic device" to be a consumer product, component or device that uses an electric current and which DTSC determines is hazardous material or hazardous waste. DTSC must adopt procedures for the phase-out of hazardous materials used in the manufacture of hazardous electronic devices by the earliest feasible date. Manufacturers are prohibited from selling hazardous electronic devices in the state unless they demonstrate to the CIWMB a hazardous electronic waste recovery plan exists that provides a cost-free and convenient recycling for consumers. In the alternative, manufacturers may remit to the board a fee covering the net average cost of collecting, processing, and recycling hazardous electronic waste.

Manufacturers must label hazardous electronic devices with their brand, meet specified recycling targets, and ensure waste is not improperly exported and disposed in other countries. CIWMB may impose administrative civil penalties of up to \$2,500 per violation and may seek civil penalties of up to \$5,000 per violation in court. CIWMB shall not implement SB 20's provisions, however, if federal law preempts the field or if a court enters a final judgement that holds that the fee imposed on manufacturers under the bill is not applicable to out-of-state manufacturers.

The Energy and Environment Committee recommends two amendments to the bill with relation to its funding provisions. First, the CIWMB should make grants only to local governments, not nonprofit agencies, because local governments are held accountable for the expenditure of those funds. Second, the CIWMB should be required to distribute the fees its collects for recovery, reuse, and recycling programs, rather than retain those fees in a fund indefinitely.

SUPPORT:

The following agencies support SB 20:

- League of California Cities
- CSAC
- Californians Against Waste
- Natural Resources Defense Council
- Sierra Club
- Planning and Conservation League

OPPOSE:

The following agencies oppose SB 20:

- American Electronics Association
- California Manufacturers & Technology Association
- Electronic Industries Alliance

BILL STATUS:

SB 20 has passed the Senate and the Assembly Natural Resources Committee. It was re-referred to the Assembly Environmental Safety and Toxic Materials Committee. As of this writing on July 10th, no hearing date has been set.

FISCAL IMPACT:

All work related to adopting the recommended staff action is contained within the adopted FY02/03 budget and adopted 2003 SCAG Legislative Program and does not require the allocation of any additional financial resources.

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